

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiffs,**

**vs.**

**FERNANDO NEVAREZ-CARREON,**

**Defendant.**

**8:14CR324**

**ORDER**

This matter is before the Court on Defendant's Notice of Appeal, ECF No. 122, and the Clerk's memorandum addressing Defendant's ability to proceed on appeal in forma pauperis, ECF No. 123. For the following reasons, the Court will not permit Defendant to proceed in forma pauperis.

"A litigant seeking to appeal a judgment must either pay the required filing fees . . . or proceed in forma pauperis . . . ." *Swift v. Williams*, No. 8:17CV331, 2017 WL 6812606, at \*1 (D. Neb. Dec. 13, 2017) (citing 28 U.S.C. § 1915; Fed. R. App. P. 3, 24).

Defendant seeks to appeal from the Court's Memorandum and Order, ECF No. 121, denying Defendant's motion to reduce sentence under 18 U.S.C. § 3582(c)(1)(A) as amended by Section 603 of the First Step Act. Although the Court inferred that the Defendant exhausted his administrative remedies, a reduction in sentence was not warranted for several reasons, including: an ICE detainer is pending and the Defendant likely will be deported upon release; although the Defendant's wife is now disabled, she is receiving proper care and the Defendant merely expresses a desire to live near the location where she resides and receives care; the Defendant's conduct on pretrial release

demonstrated that he poses a continuing danger to society; and early release would depreciate the seriousness of his offenses.

The Defendant was represented by retained counsel during his criminal proceedings, and the Defendant has not submitted documentation of his in forma pauperis status, as required by Federal Rule of Appellate Procedure 24(a)(1). Accordingly,

IT IS ORDERED:

1. Defendant is denied leave to proceed in forma pauperis on appeal;
2. The Clerk of Court is directed to mail a copy of this Order to the Defendant at his last known address; and
3. The Clerk of Court is directed to provide a copy of this Order to the United States Court of Appeals for the Eighth Circuit.

Dated this 1st day of June 2020.

BY THE COURT:

s/Laurie Smith Camp  
Senior United States District Judge